

EXHIBIT F



epagecity

WEB DESIGN & SEARCH OPTIMIZATION

EXPERT REPORT OF ALEXANDER YOUNG

Hill et al. v Quicken Loans Inc.

Case No. 5:19-cv-00163-FMO-SP (C.D. Cal.)

01-17-20

The visual presentation of the live lmb.yourvasurvey.info Webpage compared to the Active prospect video as referenced in the Rafferty Declaration (Exhibit J) and the screenshots referenced in Exhibits A, C and D is the same and therefore Hill's journey could be mimicked on the current website.

Completing the form as Hill did (using the same data for the address as Hill did), one can step through what Hill would have seen.

The journey on the Webpage would have taken place as follows;

- Exhibit K – The Webpage as it first loads – no Terms of Use visible
- Exhibit L – The Webpage after the phone number is typed - no Terms of Use visible (note the keypad has popped up in the lower section of the screen)
- Exhibit M – The Webpage once the address has been typed as visible in the Active Prospect video at 2 min's and 5 seconds. At this point, the Google auto complete has narrowed down the addresses to just one and Hill selects that one. Again, notice the keypad open in the lower section of the screen. No Terms of Use visible
- Exhibit N – Hill spends one second on the Webpage before clicking the "change" link. This can be seen on the Active Prospect video between 2 min's 5 sec and 2 min and 6 sec (Exhibit O – note that red boxes have been overlaid to indicate the time as well as location of the "Change" link). The Terms of Use are visible toward the bottom of the screen during this second.
- Exhibit P – Hill has now clicked the "Change" link and the City, State, Zip Code fields appear and push the Terms of Use link off the bottom of the screen and it is no longer visible.

Completing this journey as Hill would have, I can conclude that Hill was not offered any reasonable opportunity to see the Terms of Use link and know that she would be bound by the Terms of Use.

Visibility of Terms of Use on the lowermybills.com page

Using the same reconstruction method as above, I started with the video produced by Jornaya (referenced in the Declaration of Manny Wald) to extract a screenshot of what was presented to Hill. (See Exhibit Q). The screenshot measured 394 X 630 pixels and to stretch it to 400 pixels wide, the height was adjusted to 639 pixels (400/394 X 630).

On that site too, the Terms of Use link is not visible to the site visitor and is hidden further down the screen.

On 12-24-19 I received an email sent to a personal email address of mine that was never used in any of my testing or in any interaction with either of the websites in question. I have no record of any email related to LowerMyBills.com prior to this one. The email was sent from an email address with the name LowerMyBills referencing the website LowerMyBills.com in the email body as a solicitation for a mortgage refinance. The link went to the lowermybills.com website.

As an additional datapoint, I decided to test this journey to see if there would be visibility to the Terms of Use. I checked it on my own phone, an iPhone, as well as emulating a Pixel using Browserstack. The Terms of Use were not conspicuous on either the iPhone or the Pixel (Exhibit R).

REDACTED

Did Hill click the “See my results” button?

A web form that collects data on a web page such as the Webpage in question would typically send (submit) that data to the webserver by an action. That action is typically by the click of a button. This button has a default name of “submit”. That’s what you’ll see on most web forms such as online donation forms, contact forms, etc.

On the Webpage in question, the name has been changed from the standard “submit” to something that is more of a call to action; “See my results!”. That is standard practice to entice the site visitor to actually submit their data to the webserver.

When the button is pressed, a call is made to the webserver passing along the data and returning the site visitor to an “action” page which is typically one that conveys a message that the website would like to inform the site visitor of once the form is submitted. For example, an online donation would have “Thank you” type content or a contact form submission would return a page saying “we’ll get back to you soon”.

In reviewing the code on the Webpage in question, the standard method of submitting the form data (the values such as name, phone, address, etc.) is not being used. The code that reacts to website behavior, JavaScript, is contained in a file called combined.js. Within this, there is code (Exhibit U) that submits data on actions not associated to the site visitor clicking the “See my results!” button.

That aside, if one does click that button, the page that you’re directed to is <https://lmb.yourvasurvey.info/tel-thankyou.html> with parameters attached as shown in Exhibit V and is aptly called “Thank you”.

As previously stated, in his declaration regarding the Active Prospect video of Hill’s site visit to the Webpage, Mr. Rafferty notes, in paragraph 4, that;

“A TrustedForm certificate of authenticity includes a video replay of the user’s interaction with the page where the script is present. The video replay works by capturing a copy of the webpage and recording all of the user’s interactions with the webpage, including any personal information that the consumer inputs, mouse movements, clicks as they happen in real-time, and changes made to the webpage in response to consumer inputs.”

Paragraph 5 continues with;

“Enclosed hereto as Exhibit A is a true and correct copy of the video replay”

In the declaration of Manny Wald, Mr. Wald states in paragraph 4;

“The Visual Playback is a visual rendering of the actual lead creation event, showing exactly what the consumer did as they completed the lead creation form. Throughout the lead creation event, every time the client’s webpage loads or changes, Jornaya’s script collects all form fields (the entered values which are hashed using a one-way hashing algorithm) and other data provided during a consumer’s interaction on a lead creation form. This data is stored and can be retrieved to visually render the lead creation experience, including TCPA disclosure language presented to the consumer and the effect or progress on the webpage based on how they consented (for example, the effect or next page on the webpage resulting from the action needed to be taken by the consumer on the webpage; for example they actively clicked or selected an electronic submission button).”

In the bolded parts (not bolded in the original declaration, but done so here to draw attention to the pertinent areas), Mr. Wald not only affirms that his video shows “exactly what the consumer did”, but he states that it will also show if the site visitor “actively clicked or selected an electronic submission button”.

So, what one would expect to see at the end of both these videos is the “Thank You” page as shown in Exhibit V.

Both videos show the Webpage open at 1 min 31 seconds. Both videos show the final address information entered at 2 min 5 seconds. Hill, adjusts the Street Address field to remove “wildomar” and no further user interaction is observed.

Instead, the videos both end with the Webpage and “See my Results!” button still visible. A behaviour consistent with Hill not submitting the button, but rather abandoning the page.

Additionally, the Jornaya video in the Declaration of Manny Wald displaying the journey followed by Hill on the lowermybills.com website does show a final page which validates Mr. Wald’s assertion that his software would show if the site visitor “actively clicked or selected an electronic submission button”.

There would be no reason why the two Jornaya videos would not be consistent.

I can conclude with technical certainty and using multiple sets of evidence that Hill did not click the “See my Results!” submit button on the Webpage.